Supreme Court, U.S.
FILED

03 - 64 APR 30 2003

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

IN RE: PAUL ALLEN DYE

ON PETITION FOR WRIT OF MANDAMUS TO
UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT

PETITION FOR WRIT OF MANDAMUS

Sandra L. Bailiff Girard
Attorney for Petitioner
P.O. Box 828
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Attorney for Petitioner in Court of Appeals
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30 pp

STATEMENT OF QUESTION PRESENTED

When no court rule or statute permitted the Court of Appeals, appointment of a new third judge to break the tie of an evenly divided court, does such action conflict with Supreme Court law and case law from another circuit? Do the exceptional circumstances involved require an exercise of the Supreme Court's exclusive supervisory power to prevent a lack of federal judicial procedure from causing a constitutional violation?

Petitioner answers: Yes.

Respondent has not yet answered.

LIST OF PARTIES INVOLVED

All parties to this action do not appear in the caption of the cover page. All parties to the proceeding in the court who judgment is the subject of this petition are:

Paul Allen Dye, Respondent-Appellant

Gerald Hofbauer, Respondent-Appellee

The United States Court of Appeals for the Sixth Circuit

DISCLOSURE OF CORPORATE AFFILIATIONS AND FINANCIAL INTEREST

Pursuant to Supreme Court Rule 29(6), Petitioner Paul Allen Dye declares:

1. He is not a subsidiary or affiliate of a publicly owned corporation.

2. There is no publicly owned corporation, not a party to the case, that has a financial interest in the outcome.

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ORDERS AND OPINIONS BELOW

The November 22, 2003, unpublished order of the United States Court of Appeals withdrawing the panel rehearing decision appears as Appendix A to this petition. This order is being challenged with this petition.

The November 18, 2003, unpublished order of the United States Court of Appeals denying rehearing en banc and panel rehearing appears as Appendix B to this petition.

The August 29, 2002, unpublished opinion of the United States Court of Appeals granting habeas corpus relief is not attached as an appendix to this petition. Its unofficial citation is Dye v Hofbauer, 45 Fed.Appx. 428 (6th Cir. 2002). This decision is not challenged in this petition.

The March 29, 2002, unpublished order of the United States Court of Appeals granting habeas corpus relief appears as Appendix C of the petition. This order is not being challenged by this petition.

STATEMENT OF JURISDICTION

This petition for writ of mandamus seeks relief against the United States Court of Appeals for the Sixth Circuit. The Court of Appeals, over Petitioner's objection took action with its November 22, 2003, order which violates this Court's procedural law regarding equally divided courts as announced in Neil v. Biggers, 409 U.S. 188, 93 S.Ct. 375, 34 L.Ed.2d 401 (1972). Pursuant to 28 U.S.C. § 2072(a), this Court maintains exclusive supervisory authority over the practice and procedure of the Court of Appeals. No other court is superior to the Federal Court of Appeals. This Court, and no other, has jurisdiction to issue a writ of mandamus to direct the Court of Appeals on what is proper judicial practice and procedure.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1615(a) which states:

> The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of the respective jurisdictions and agreeable to the usages and principles of law.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. § 2072(a)

The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States District Courts (including proceedings before magistrates thereof) and Court of Appeals.

STATEMENT OF THE CASE

On September 25, 1990, a Michigan jury convicted Petitioner Paul Allen Dye of first degree murder, second degree murder, and possession of a firearm during the commission of a felony. The Michigan Court of Appeals affirmed the convictions in an unpublished decision. The Michigan Supreme Court denied leave to appeal, People v. Dye, 453 Mich. 852, 551 NW2d 189 (1996). This Court denied certiorari. Dye v. Michigan, 520 U.S. 1232, 117 S.Ct. 1828, 137 L.Ed.2d 1034 (1997).

Petitioner sought habeas corpus relief in the United States District Court for the Eastern District of Michigan. The District Court denied the petition on May 28, 1999. Petitioner appealed to the United States Court of Appeals for the Sixth Circuit.

The district court issued a certificate of appealability on one of Petitioner's ten constitutional claims. The Court of Appeal ultimately issued a certificate of appealability with respect to all the claims.

The appellate panel issued a March 29, 2002, Order granting Petitioner habeas corpus relief. Appendix C. The Order gave the state 90 days, after the time for rehearing expired, to retry Petitioner or release him. The Order postponed the rehearing process until after issuance of the panel's opinion. Circuit Judge Martha Craig Daughtrey dissented from the decision granting relief. Senior Circuit Judge Nathaniel F. Jones, retired from the Court of Appeals effective March 31, 2002.

The panel issued its unpublished Opinion August 29, 2002. Dye v. Hofbauer, 45 Fed.Appx. 428 (6th Cir. 2002). The majority held the prosecutor's misconduct at trial denied Petitioner due process and warranted habeas corpus relief. Judge Daughtrey's dissenting opinion disagreed with the majority's factual interpretations. 45 Fed. Appx. at 439-443. The majority opinion was submitted to the court prior to Judge Jones' departure.

Respondent filed a timely petition for panel rehearing and suggestion for rehearing en banc. Both rehearing en banc and panel rehearing were denied November 18, 2002. Appendix B. The Order noted judge Jones did not participate in the panel rehearing decision. Judge Daughtrey would grant rehearing for the reasons stated in her dissent.

Four days later, the Court issued an Order withdrawing the November 18th Order "to the extent that the panel denies the petition for rehearing." Appendix A. The Court of Appeals' November 22, 2002 Order said it would give further directions in a subsequent order. No subsequent order has been issued.

On November 25, 2002, Petitioner's counsel wrote the Court of Appeals explaining Petitioner's position on why the November 218, 2002, decision denying panel rehearing should stand. Counsel maintained that the remaining two judges constituted a quorum whose equally divided vote affirmed the panel's opinion on rehearing. Appendix D. The Court of Appeals construed the letter as a motion for reconsideration. Appendix F. Respondent claimed a new third judge could be appointed to decide the rehearing question. Appendix E.

Petitioner heard nothing from the Court of Appeals until April 2, 2003. Counsel for Petitioner contacted case manager Sue Burlege who informed him that a new third judge had been appointed to the panel in January 2003. According to Burlege, the new judge was appointed to take the place of retired Judge Jones for the purpose of deciding the panel rehearing question. The case manager would not reveal the identity of the newly appointed judge. Appendix F. No order of appointment was entered on the Court of Appeals docket or issued to the parties.

The Court of Appeals appointed the new third judge to break the tie vote of the evenly divided rehearing panel without issuing an official order of appointment. Appendix G. Instead of

receiving further instructions from the court, Petitioner inadvertently learned of the appointment months later through a routine telephone call to the case manager. Appendix F. Without an Order of Appointment, it is unknown on what authority, if any, the Court of Appeals based its decision to appoint a tie breaker judge in this case.

REASON FOR GRANTING THE PETITION

No court rule or statute permitted the Court of Appeals' appointment of a new third judge to break the tie of an evenly divided court, and such action conflicts with Supreme Court law and case law from another Federal Circuit. The exceptional circumstances involved require an exercise of the Supreme Court's exclusive supervisory power to prevent a lack of federal judicial procedure from causing a constitutional violation.

The Court has supervisory power over other federal courts, and may use that power to prescribe rules and procedures that are binding in those tribunals. 28 U.S.C. § 2072(a); Dickerson v. United States, 530 U.S. 428, 120 S.Ct. 2326, 147 L.Ed.2d 405 (2002). That supervisory power allows the Court to intervene to protect the integrity of the federal system. Frazier v. Heebe, 482 U.S. 641, 107 S.Ct. 2607, 96 L.Ed.2d 557 (1987).

Exercise of the Court's supervisory power is especially appropriate in determination of procedures to be employed by the federal courts to enforce orders, a subject that directly concerns function of judiciary. Young v. U.S. ex rel. Vuitton et Fils S.A., 481 U.S. 787, 107 S.Ct. 2124, 95 L.Ed.2d 470 (1987). Supervisory intervention is required in this case to avoid a due process violation and to establish uniform procedure between the federal circuits on the question of equally divided appellate panels decisions.

The Court examined the quandary of equally divided courts in Neil v. Biggers, 409 U.S. 188, 93 S.Ct. 375, 34 L.Ed.2d 401 (1972). The Neil Court noted the first occasion the Court was faced with an equal division was in The Antelope, 10 Wheat. 66, 126-127, 6 L.Ed. 268 (1825), in which it affirmed on he point of division without much discussion. During the next term, the Court again affirmed explaining that the legal principles involved could not be settled because the court was evenly divided in its opinion.

Etting v. Bank of United States, 11 Wheat. 59, 78, 7 L.Ed. 419 (1826).

The Court later explained that in such cases where a party is asking the Court to overturn a court decree:

> If the judges are divided, the reversal cannot be had, for no order can be made. The judgment of the court below, therefore, stands in full force. It is, indeed, the settled practice in such case to enter judgment of affirmance; but this is only the most convenient mode of expressing the fact that the cause is finally disposed of in conformity with the action of the court below, and that the court can proceed to enforce its judgment. The legal effect would be the same if the appeal, or writ or error were dismissed.

Durant v. Essex Co., 7 Wall. 107, 112, 19 L.Ed. 154 (1869).

Applying this long standing precedent, the Neil Court reaffirmed its procedural requirement of affirmation by an equally divided court and held that such decisions are afforded no precedential value. 409 U.S. at 191-192. The Court also affirms judgments under review in part when it is evenly divided with respect to only of the legal claims reviewed. See Carpenter v. United States, 484 U.S. 19, 108 S.Ct. 316, 98 L.Ed.2d 275 (1987); United States v. Zolin, 491 U.S. 554, 109 S.Ct. 2619, 105 L.Ed.2d 469 (1989).

This well settled procedural practice was applied by the Court of Appeals for the Ninth Circuit to resolve a case involving an evenly divided appellate panel. In Blazak v . Ricketts, 1 F.3d 891 (9th Cir. 1993), an appeal from a district court decision granting habeas corpus relief, one member of the three judge panel refused to participate in a decision on the merits of the case. His refusal was based on his prior opinion that the circuit court lacked jurisdiction to decide the case. 1 F.3d at 900.

One of the remaining Blazak judges voted to affirm the lower court decision and the other dissented. 1 F.3d at 901. The court affirmed the judgment under review because the panel was evenly divided on the merit of the appeal issues. 1 F.3d at 892-893. The Ninth Circuit Court of appeals did not appoint a new third judge to break the panel's tie vote. The non-voting judge, recognizing the

precedence of Neil v. Biggers noted that affirmance by an equally divided court had no precedential weight. 1 F.3d at 900.

The Court of Appeals for the Sixth Circuit applies the same principle to its en banc rehearing process. In Stupak-Thrall v. United States, 89 F.3d 1269 (6th Cir. 1996), the en bac court divided equally and, according to established custom, affirmed the judgment under review. This same practice should apply to cases where the rehearing panel is equally divided.

In the instant case, although the decision being reviewed was an appellate opinion, not a lower court decision, the doctrine of Neil v Biggers mandates affirmance by an equally divided court. Pursuant to 28 U.S.C. 46 (d), the two remaining panel judges constituted a quorum eligible to act. The need for a full three judge panel was reduced by virtue of the narrow factual interpretation focus of the rehearing petition.

The rehearing petition essentially paralleled factual statements found in the dissenting opinion. The panel majority, including retired Judge Jones, had already considered and rejected the dissent's factual interpretations. Respondent's reassertion of that position failed to sway the remaining majority panel member to change his vote. This resulted in an equally divided panel quorum which could not issue an order granting rehearing. therefore, under the authority of Neil v. Biggers, the Court of Appeals August 29, 2002, Opinion must be affirmed on rehearing by virtue of the court's November 18, 2002, evenly divided panel rehearing decision.

It is desirable for the Court of Appeals to have rules of practice and procedure giving parties fair warning of treatment afforded petitions for rehearing. Missouri v. Jenkins, 495 U.S. 3, 110 S.Ct. 1651, 109 L.Ed.2d 31 (1990). There is no court rule or statute that permitted the Court of Appeals to appoint a new third judge as a tie breaker for an evenly divided appellate panel.

The panel judges evenly divided on the question of rehearing, the petition for rehearing could not be made. The Court's March 29, 2002 Order, and August 29, 2002 Opinion, therefore, stands in full force according to the procedural holding of Neil v. Biggers, supra. Enforcement of those judgments is appropriate at this time. Petitioner will be denied the benefit of the Neil v. Biggers procedural protection, and due process of the law, if the Court of

Appeals is permitted to proceed to a new rehearing decision through its appointment of the tie breaker judge.

CONCLUSION

The Court of Appeals' decision to appoint a new third judge as a tie breaker for the evenly divided panel quorum conflicts with this Court's prior decisions. It also conflicts with the case law for the Ninth Federal Circuit. Appointment of the tie breaker judge to broker a rehearing decision prevents Petitioner from obtaining enforcement of the Court of Appeals' judgment. Consequently, the petition for writ of mandamus should be granted and the Court of Appeals for the Sixth Circuit directed to apply this Court's procedural holding in Neil v. Biggers to the equally divided panel rehearing decision.

Petitioner Paul Allen Dye respectfully requests that this Honorable Court GRANT the petition for writ of mandamus.

Respectfully submitted,

SANDRA L. BAILIFF GIRARD
Attorney for Petitioner
P.O. Box 828
Jackson, Michigan 49204

Dated: June 24, 2003

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APPENDIX A - November 22, 2003, Court of Appeals Order

APPENDIX B - November 18, 2003, Court of Appeals Order

APPENDIX C - March 29, 2002, Court of Appeals Order

APPENDIX D - November 25, 2003, Petitioner letter to Court of Appeals

APPENDIX E - November 25, 2003, Respondent letter to Court of Appeals

APPENDIX F - Affidavit of Attorney Michael D. Wiseman

APPENDIX G - Court of Appeals docket listing

No. 99-1929

UNITED STATE COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PAUL ALLEN DYE,	)	
	)	
Petitioner-Appellant	)	November 22, 2002
	)	
vs.	)	ORDER
	)	
GERALD HOFBAUER,	)	
	)	
Respondent-Appellee.	)	
	)	

The order entered November 18, 2002, is hereby withdrawn to the extent that the panel denies the petition for rehearing.

The court will give further directions in a subsequent order.

ENTERED BY ORDER OF THE COURT

Leonard Green, Clerk

APPENDIX A

No. 99-1929

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

PAUL ALLEN DYE,	)	
	)	
Petitioner-Appellant,	)	November 18, 2002
	)	ORDER
vs.	)	
	)	
GERALD HOFBAUER,	)	
	)	
Respondent-Appellee.	)	

BEFORE: JONES and DAUGHTREY, Circuit Judges; and ECONOMUS* District Judge

The court having received a petition for rehearing en bac, and the petition having been circulated not only to the original ** panel members but also all other active judges of this court, and less than a majority of the judges having favored the suggestion, the petition for rehearing has been referred to the original panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petitions denied. Judge Daughtrey would grant rehearing for the reasons stated in her dissent.

ENTERED BY ORDER OF THE COURT

Leonard Green, Clerk

APPENDIX B

Hon. Peter C. Economus, United States District Court Judge for the Northern District of Ohio, sitting by designation.

The Honorable Nathaniel R. Jones, United States Circuit Judge, a member of the original panel, retired from the Sixth Circuit effective March 31, 2002, and did not participate in the panel's decision on rehearing.

No. 99-1929

UNITED STATES COURT OF APPEALS
FOR TH[illegible] SIXTH CIRCUIT

PAUL ALLENT DYE,	)
	) ON APPEAL FROM THE
Petitioner-Appellant	) UNITED STATES DISTRICT
	) COURT FOR THE)EASTERN
vs.	) DISTRICT OF MICHIGAN
	)
GERALD HOFBAUER, Warden)	
of the State Prison of Southern	)
Michigan,	) March 29, 2002
	)ORDER
Respondent-Appellee.	)

BEFORE: JONES AND DAUGHTERY, Circuit Judges, and ECONOMUS, District Judge.

The petitioner, Paul Allen Dye, is a Michigan prisoner who was convicted on two counts of murder, following his third jury trial in the state court. His convictions were affirmed by the Michigan Courts, and he subsequently filed a petition for a writ of habeas corpus in federal district court, pursuant to 28 U.S.C. § 2254. The district court denied relief, and Dye appealed to this court, a panel of which heard oral argument on May 3, 2001.

Having had the benefit of oral argument, and having studied the record on appeal and the briefs of the parties, a majority of the panel concludes that the district court erred in denying relief, for reasons that will be explained in an opinion to be released following entry of this order. Judge Daughtrey concludes that the district court did not err, and will file a separate opinion dissenting form the majority's position.

The judgment of the district court is REVERSED and a condition writ of habeas corpus issue with the entry of a mandate in this case, giving the State of Michigan 90 days in which to provide the petition with a new trial or release him. The time for filing a petition to rehear shall run from the date that the opinions are filed in this case.

ENTERED BY ORDER OF THE COURT

_____

Leonard Green, Clerk

MICHAEL D. WISEMAN, P.C.
ATTORNEYS AND COUNSELORS AT LAW

30800 TELEGRAPH ROAD, SUITE 2980
BINGHAM FARMS, MICHIGAN 48025
(248) 642-8200
FAX (248) 258-5563

November 25, 2002

Leonard Green
Clerk of the Court
U.S. Court of Appeals - 6th District
100 E. Fifth Street, Room 538
Cincinnati, OH 45202-3988

RE: Dye v Hofbauer
Case No.: 99-1929

Dear Mr. Green:

This is in regard to the unavailability (due to retirement) of one judge of a three-judge panel with the remaining two judges being evenly divided on granting panel rehearing. My research shows this to be a unique situation. I have found no rule or statute that requires or permits assignment of another judge to the panel in this situation.

Pursuant to 28 U.S.C. 46(d), the two remaining panel judges constitute a quorum eligible to act. An authorized quorum in this case has, therefore, considered and decided the petition for panel rehearing and is evenly divided. When en banc decisions and Supreme Court decisions are evenly divided, it is customary that

the judgment under review is affirmed. Under the unique situation presented here, and the lack of a controlling procedure, I believe it appropriate to apply the "evenly divided" doctrine in this case and affirm the March 29, 2002, Order and the Option of August 29, 2002.

I hope this letter is of some assistance toward a swift resolution of this matter.

Very truly yours,

MICHAEL D. WISEMAN, P.C.

MICHAEL D. WISEMAN

MDW:ljw
cc: Laura G. Moody
Paul A. Dye

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

WILLIAM J. RICHARDS, Deputy Attorney General, P.O. Box 30217, Lansing, Michigan 48909

JENNIFER MULHERN GRANHOLM
ATTORNEY GENERAL

November 25, 2002

SENT VIA FACSIMILE TRANSMISSION

Leonard Green
Clerk of the Court
United States Court of Appeals for
the Sixth Circuit
524 United States Post Office and Courthouse
Cincinnati, Ohio 45202-3988

Dear Mr. Green:

RE: Dye v. Hofbauer
United States Court of Appeals No. 99-1929
Our File Number 1997053834B

Respondent trust that the Court will not take any substantive action as a result of the legal argument presented in Mr. Wiseman's letter. If the question raised in the proceeding is open to debate then Respondent requests the opportunity to respond with legal arguments in an appropriate pleading.

APPENDIX E

However, Respondent would note that despite Mr. Wiseman's assertion to the contrary, research does reveal precedent for the

replacement of a judge on a panel rehearing. See United States v. Rodes, 463 F.2d 73 (6th Cir. 1972).

Sincerely,

Laura Moody (P51994)
Assistant Attorney General
Habeas Corpus Division
517-373-4875

:mgm
c: Michael D. Wiseman
Petitioner-Appellant's Counsel
mgm: 1997053834B.DYE.Covltr

IN THE SUPREME COURT OF THE UNITED STATES

IN RE: PAUL ALLEN DYE
Case No. _____

AFFIDAVIT OF MICHAEL D. WISEMAN

STATE OF MICHIGAN)
COUNTY OF OAKLAND) ss

I, MICHAEL D. WISEMAN, do swear or declare the following:

1. That on April 2, 2003, I had a telephone conversation with Sue Burlege, the Assigned Case Manager for the 6th Circuit Court of Appeals of the within cause.

2. That, during that conversation, I was informed for the first time that a third (tie breaker) judge had been randomly selected to review the Petition for Rehearing.

3. I was further informed the appointment had been made in January, 2003. I was further informed the identity of that judge would not be disclosed to me.

I declare under penalty of perjury that the foregoing is true and correct.

_____
MICHAEL D. WISEMAN

Dated: June 12, 2003

APPENDIX F

General Docket
Sixth Circuit Court of Appeals
Filed 8/24/99

Court of Appeals Docket #99-1929
Nsuit: 3530 Prisoner: Habeas Corpus
Dye v. Hofbauer

Appeal from: Easter District of Michigan at Detroit

Case type information:
1) prisoner petition
2) state
3) habeas corpus

Lower court information:
District: 0645-2 : 97-74817
Trial Judge: Avern Cohn, District Judge

Date Filed: 9/22/97
Date order/judgment: 7/20/99
Date NOA filed: 8/9/99

Fee status: paid

Prior cases: none
Current cases: none

PAUL ALLEN DYE
Petitioner-Appellant

APPENDIX G

Michael D. Wiseman
FTS 258-5563
248-642-8200
[COR LD NTC ret)
30800 Telegraph
Suite 2980
Bingham Farms, MI 48025

v.

GERALD HOFBAUER
Respondent-Appellee

11/3/99	CERTIFIED RECORD filed with certificate of appealability granted in part and denied in part (doc. #99) - Volumes include 37 Tr; 9 Pl. [99-1929] (dag)
1/27/00	ORDER filed: a certificate of appealability is unnecessary. A briefing schedule shall issue, and the parties may assert all appropriate claims on appeal. [99-1929] Boyce F. Martin, Chief Judge. (stb)
1/27/00	BRIEFING LETTER SENT setting schedule: appellant proof brief 3/7/00; appellee proof brief 4/6/00; reply 4/20/00; appendix 4/27/00; all final briefs 5/18/00. [99-1929] (stb)
3/6/00	PROOF BRIEF filed by Michael D. Wiseman for Appellant Paul Allen Dye. Certificate of service dated 3/3/00. Number of pages: 56 (13,900). [99-1929] (rgf)
3/6/00	Request to require oral argument filed by Michael D. Wiseman for Appellant Paul Allen Dye [991929] (rgf)

3/6/00	BRIEFING LETTER SENT requesting brief correction from Michael D. Wiseman because summary of argument Corrections due: 3/13/00. (rgf)
3/10/00	Corrected appellant proof brief filed by Michael D. Wiseman. Copies: 01. Certificate of Service dated 3/8/00 [99-1929] REPLACES BRIEF FILED 03/06/00 (rgf)
3/10/00	Request to require oral argument filed by Michael D. Wiseman for Appellant Paul Allen Dye [99-1929] (rgf)
4/5/00	Appellee MOTION filed to extend time to file brief. Motion filed by Janet A. Napp for appellee Hofbauer. Certificate of service 4/4/00. [99-1929] (stb)
4/6/00	LETTER SENT by stb granting appellee's motion to extend briefing. Resetting schedule: appellee proof of service brief 5/9/00; reply 5/23/00; appendix 5/30/00; all final briefs 6/20/00. [99-1929] (stb)
5/2/00	ORDER filed to grant a certificate of appealability with respect to all the issues involving the petitioner on appeal. See Slack v McDaniel, No. 98-6322, 2000 WL 478879, at *6(U.S. Apr. 26, 2000). [99-1929]. Boyce F. Martin, Chief Judge. (dtk)
5/8/00	APPEARANCE filed by Attorney Laura Graves Moody for Appellee Hofbauer. Certificate of service 5/3/00. [99-1929] (stb)

5/8/00	Appellee MOTION filed to extend time to file brief. Motion filed by Laura Grave Moody for appellee Hofbauer. Certificate of service 5/3/00. [99-1929] (stb)
5/9/00	LETTER SENT by stb granting appellee's motion to extend briefing. Resetting schedule: appellee proof brief 5/26/00; reply 6/9/00; appendix 6/16/00; all final briefs 7/7/00. [99-1929] (stb)
5/30/00	PROOF BRIEF filed by Laura Grave Moody for Appellee Gerald Hofbauer. Certificate of service date 5/26/00 - Number of Pages: 44 (9393). [99-1929] (rgf)
5/30/00	Request to waive oral argument and submit case on the briefs (waiver on page: 01), filed by Laura Grave Moody for Appellee Gerald Hofbauer [99-1929] (rgf)
6/9/00	Appellant MOTION filed to extend time to file reply brief (the respondent will be submitting a corrected proof brief) Motion filed by Michael D. Wiseman for Petitioner Dye. Certificate of service 6/6/00. [99-1929] (stb)
6/9/00	Letter sent by stb granting petitioner's motion to extend time to file a reply brief. Resetting schedule: reply 7/7/00; appendix 7/14/00; all final briefs 8/4/00. [99-1929] (stb)
6/14/00	Appellee MOTION: for leave to file an amended proof brief. Motion filed by Laura Graves Moody for Appellee Hofbauer. Certificate of service 6/12/00. [99-1929] (stb)

6/14/00	LETTER SENT by stb granting respondent's motion to file an amended proof brief. [99-1929] (stb)